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OFFICE OF PETITIONS

MICHAEL A. DE SANCTIS 756 HARRISON ST. DENVER CO 80206

In re Application of

Abraham R. Matthews et al.

Application No. 09/661,130

Filed: September 13, 2000

Attorney Docket No. FORT-000300

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)<sup>1</sup> filed March 6, 2006 to revive the above identified application.

## The petition is **GRANTED**.

This application became abandoned January 19, 2005 for failure to timely reply to the Final Office Action mailed October 18, 2004, which set a shortened statutory period of three months for reply. Accordingly, a Notice of Abandonment was mailed August 23, 2005.

Previous Attorneys of Record submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The petition fee and RCE fee have been charged to previous attorney of record's deposit account. A refund in the amount of \$1020.00 has been credited to their deposit account for the three month extension of time request filed with the instant petition. Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time request was submitted with the petition on March 6, 2006 which was subsequent to the maximum period obtainable for reply, this fee is unnecessary.

<sup>&</sup>lt;sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) <u>must</u> be accompanied by:

<sup>(1)</sup> the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

<sup>(2)</sup> the petition fee as set forth in 37 CFR 1.17(m);

<sup>(3)</sup> a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

<sup>(4)</sup> any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being forwarded to Technology Center 2144 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions

Attorney at (571) 272-3212.

Patricia Faison-Ball

**Senior Petitions Attorney** 

Office of Petitions